

HOUSE BILL 1409
By Wood

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 57, relative to the issuance, sale and terms of bonds, capital outlay notes, refunding bonds and related contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 57, Part 5, is hereby amended by adding a new section as follows:

7-57-505.

(a) In addition to powers otherwise granted by this part or any other public or private act of this state, and with respect to all or any portion of any issue of bonds or notes issued or anticipated to be issued under any applicable law, at any time during the term of the bonds or notes, and upon receipt of a report of the comptroller of the treasury or the comptroller's designee finding that the contracts and agreements authorized in this subsection are in compliance with the guidelines, rules or regulations adopted or promulgated by the state funding board, as set forth in subsection (c), a private act metropolitan hospital authority by resolution may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements under such terms and conditions as

the governing body of the private act metropolitan hospital authority may determine, including, without limitation, provisions permitting the private act metropolitan hospital authority to pay to or receive from any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

(b) The governing body of a private act metropolitan hospital authority may enter into an agreement to sell its bonds and notes (other than its refunding bonds) providing for delivery of its bonds and notes on a date greater than ninety (90) days and not greater than five (5) years (or such greater period of time if approved by the comptroller of the treasury or the comptroller's designee), from the date of execution of such agreement or to sell its refunding bonds under this chapter providing for delivery of its refunding bonds on a date greater than ninety (90) days from the date of execution of the agreement and not greater than the first optional redemption date on which the bonds being refunded can be optionally redeemed resulting in cost savings or at par, whichever is earlier, only upon receipt of a report of the comptroller of the treasury or the comptroller's designee finding that the agreement or contract of a private act metropolitan hospital authority to sell its bonds and notes as authorized in this subsection is in compliance with the guidelines, rules or regulations adopted or promulgated by the state funding board in accordance with the provisions of subsection (c). Agreements to sell bonds and refunding bonds for delivery ninety (90) days or less from the date of execution of the agreement do not require a report of the comptroller of the treasury or the comptroller's designee.

(c) The state funding board shall establish guidelines, rules or regulations with respect to the agreements and contracts referenced in subsections (a) and (b), which may include, but shall not be limited to, the following:

(1) The conditions under which such agreements or contracts can be entered into;

- (2) The methods by which such contracts are to be solicited and procured;
- (3) The form and content such contracts shall take;
- (4) The aspects of risk exposure associated with such contracts;
- (5) The standards and procedures for counterparty selection, including rating criteria;
- (6) The procurement of credit enhancement, liquidity facilities, or the setting aside of reserves in connection with such contracts or agreements;
- (7) The methods of securing the financial interest in such contracts;
- (8) The methods to be used to reflect such contracts in the private act metropolitan hospital authority's financial statements;
- (9) Financial monitoring and periodic assessment of such contracts by the private act metropolitan hospital authority;
- (10) The application and source of non-periodic payments; and
- (11) Educational requirements for officials of any private act metropolitan hospital authority responsible for approving any such contract or agreement.

Prior to the adoption by the governing body of the private act metropolitan hospital authority of a resolution authorizing such contract or agreement, a request shall be submitted to the comptroller of the treasury or the comptroller's designee for a report finding that such contract or agreement is in compliance with the guidelines, rules or regulations of the state funding board. Within fifteen (15) days of receipt of the request, the comptroller of the treasury or the comptroller's designee shall determine whether the contract or agreement substantially complies with the guidelines, rules or regulations and shall report thereon to the private act metropolitan hospital authority. If the report of the comptroller of the treasury or the comptroller's designee finds that the contract or agreement complies with the guidelines, rules or regulations of the state funding board

or the comptroller of the treasury shall fail to report within the fifteen-day period, then the private act metropolitan hospital authority may take such action with respect to the proposed contract or agreement as it deems advisable in accordance with the provisions of this section and the guidelines, rules or regulations of the state funding board. If the report of the comptroller of the treasury or the comptroller's designee finds that such contract or agreement is not in compliance with the guidelines, rules or regulations, then the private act metropolitan hospital authority is not authorized to enter into such contract or agreement. The guidelines, rules or regulations shall provide for an appeal process to a determination of noncompliance.

(d) When entering into any contracts or agreements facilitating the issuance and sale of bonds and notes, including contracts or agreements providing for liquidity and credit enhancement and reimbursement agreements relating thereto, interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, other interest rate hedging agreements, and agreements with the purchaser of the bonds or notes evidencing a transaction bearing a reasonable relationship to this state and also to another state or nation, the private act metropolitan hospital authority may agree in the written contract or agreement that the rights and remedies of the parties thereto shall be governed by the laws of this state or the laws of such other state or nation; provided, that jurisdiction over any private act metropolitan hospital authority against which an action on such a contract or agreement is brought shall lie solely in a court in Tennessee which would otherwise have jurisdiction of actions brought in contract against such private act metropolitan hospital authority.

(e) Prior to the adoption or promulgation by the state funding board of guidelines, rules or regulations with respect to the contracts and agreements authorized in subsections (a) and (b), a private act metropolitan hospital authority may enter into such contracts or agreements to the extent otherwise authorized in this chapter or in any other

law notwithstanding subsections (a) and (b). Nothing in the provisions of subsection (a), (b), (c) or (d) is intended to alter any existing authority in this chapter or in any other law otherwise providing authority for a private act metropolitan hospital authority to enter into the contracts or agreements described in subsection (a), (b), (c) or (d) heretofore entered into or entered into prior to the adoption or promulgation by the state funding board of guidelines, rules or regulations.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2003, the public welfare requiring it.